



1 Mark E. Ellis – 127159  
June D. Coleman – 191890  
2 Jennifer S. Gregory – 228593  
ELLIS, COLEMAN, POIRIER, LAVOIE, & STEINHEIMER LLP  
3 555 University Avenue, Suite 200 East  
Sacramento, CA 95825  
4 Tel: (916) 283-8820  
Fax: (916) 283-8821

5 Attorneys for Respondent JACK H. BOYAJIAN  
6  
7

**FILED**

**JUN 06 2008**

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

8 **THE STATE BAR COURT**  
9 **HEARING DEPARTMENT – LOS ANGELES**  
10

11 IN THE MATTER OF JACK H. BOYAJIAN,  
12 NO. 202304,

13 A Member of the State Bar,  
14

Case Nos.: 04-O-14977; 05-O-01799; 05-O-02165; 05-O-02268; 05-O-02799; 05-O-04033; 05-O-04704; 05-O-04826; 05-O-04918; 05-O-05305; 06-O-11995; 06-O-12320; 06-O-12868; 06-O-12913; 06-O-12915; 06-O-13753; 06-O-13833; 06-O-15158; 07-O-10915; 07-O-10916

**RESPONDENT JACK H. BOYAJIAN'S  
RESPONSE TO DISCIPLINARY CHARGES  
FILED BY THE CALIFORNIA STATE BAR**

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17  
18 Respondent Jack H. Boyajian hereby responds to the Notice of Disciplinary Charges filed by  
19 the California State Bar as follows:

20 **COUNT ONE**

21 **Case No. 05-O-02165**

22 Respondent denies culpability under Count One.

23 **COUNT TWO**

24 **Case No. 05-O-02165**

25 Respondent denies culpability under Count Two.

26 **COUNT THREE**

27 **Case No. 05-O-02165**

28 Respondent denies culpability under Count Three.

**COUNT FOUR**

**Case No. 04-O-14977**

Respondent denies culpability under Count Four.

**COUNT FIVE**

**Case No. 04-O-01799**

Respondent denies culpability under Count Five.

**COUNT SIX**

**Case No. 04-O-01799**

Respondent denies culpability under Count Six.

**COUNT SEVEN**

**Case No. 04-O-04704**

Respondent denies culpability under Count Seven.

**COUNT EIGHT**

**Case No. 04-O-02799**

Respondent denies culpability under Count Eight.

**COUNT NINE**

**Case Nos. 04-O-14977; 05-O-01799; 05-O-04704; 05-O-02799**

Respondent denies culpability under Count Nine.

**COUNT TEN**

**Case Nos. 04-O-14977; 05-O-01799; 05-O-04704; 05-O-02799**

Respondent denies culpability under Count Ten.

**COUNT ELEVEN**

**Case No. 04-O-04918**

Respondent denies culpability under Count Eleven.

**COUNT TWELVE**

**Case No. 04-O-04918**

Respondent denies culpability under Count Twelve.

**COUNT THIRTEEN**

**Case No. 04-O-11995**

Respondent denies culpability under Count Thirteen.

**COUNT FOURTEEN**

**Case No. 04-O-02165**

Respondent denies culpability under Count Fourteen.

**COUNT FIFTEEN**

**Case No. 04-O-02165**

Respondent denies culpability under Count Fifteen.

**COUNT SIXTEEN**

**Case No. 04-O-02165**

Respondent denies culpability under Count Sixteen.

**COUNT SEVENTEEN**

**Case No. 04-O-02165**

Respondent denies culpability under Count Seventeen.

**COUNT EIGHTEEN**

**Case No. 06-O-02165**

Respondent denies culpability under Count Eighteen.

**COUNT NINETEEN**

**Case No. 06-O-12868**

Respondent denies culpability under Count Nineteen.

**COUNT TWENTY**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty.

**COUNT TWENTY-ONE**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-One.

**COUNT TWENTY-TWO**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-Two.

**COUNT TWENTY-THREE**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-Three.

**COUNT TWENTY-FOUR**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-Four.

**COUNT TWENTY-FIVE**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-Five.

**COUNT TWENTY-SIX**

**Case No. 06-O-12868**

Respondent denies culpability under Count Twenty-Six.

**COUNT TWENTY-SEVEN**

**Case Nos. 05-O-02165; 06-O-12868**

Respondent denies culpability under Count Twenty-Seven.

**COUNT TWENTY-EIGHT**

**Case Nos. 05-O-02165; 06-O-12868**

Respondent denies culpability under Count Twenty-Eight.

**COUNT TWENTY-NINE**

**Case Nos. 05-O-02165; 06-O-12868**

Respondent denies culpability under Count Twenty-Nine.

**COUNT THIRTY**

**Case No. 06-O-12868**

Respondent denies culpability under Count Thirty.

**COUNT THIRTY-ONE**

**Case Nos. 05-O-02165; 06-O-12868**

Respondent denies culpability under Count Thirty-One.

**COUNT THIRTY-TWO**

**Case No. 05-O-02268**

Respondent denies culpability under Count Thirty-Two.

**COUNT THIRTY-THREE**

**Case Nos. 05-O-02165; 06-O-12868**

Respondent denies culpability under Count Thirty-Three.

**COUNT THIRTY-FOUR**

**Case No. 05-O-02268**

Respondent denies culpability under Count Thirty-Four.

**COUNT THIRTY-FIVE**

**Case No. 05-O-02268**

Respondent denies culpability under Count Thirty-Five.

**COUNT THIRTY-SIX**

**Case No. 05-O-04826**

Respondent denies culpability under Count Thirty-Six.

**COUNT THIRTY-SEVEN**

**Case No. 05-O-04826**

Respondent denies culpability under Count Thirty-Seven.

**COUNT THIRTY-EIGHT**

**Case No. 05-O-02165**

Respondent denies culpability under Count Thirty-Eight.

**COUNT THIRTY-NINE**

**Case No. 05-O-05305**

Respondent denies culpability under Count Thirty-Nine.

**COUNT FORTY**

**Case No. 05-O-05305**

Respondent denies culpability under Count Forty.

**COUNT FORTY-ONE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Forty-One.

**COUNT FORTY-TWO**

**Case Nos. 05-O-02165; 05-O-05305**

Respondent denies culpability under Count Forty-Two.

**COUNT FORTY-THREE**

**Case No. 06-O-12320**

Respondent denies culpability under Count Forty-Three.

**COUNT FORTY-FOUR**

**Case No. 06-O-12320**

Respondent denies culpability under Count Forty-Four.

**COUNT FORTY-FIVE**

**Case No. 06-O-12320**

Respondent denies culpability under Count Forty-Five.

**COUNT FORTY-SIX**

**Case No. 06-O-12913**

Respondent denies culpability under Count Forty-Six.

**COUNT FORTY-SEVEN**

**Case No. 07-O-10915**

Respondent denies culpability under Count Forty-Seven.

**COUNT FORTY-EIGHT**

**Case Nos. 06-O-12913; 07-O-10915**

Respondent denies culpability under Count Forty-Eight.

**COUNT FORTY-NINE**

**Case No. 06-O-12915**

Respondent denies culpability under Count Forty-Nine.

**COUNT FIFTY**

**Case No. 06-O-13833**

Respondent denies culpability under Count Fifty.

**COUNT FIFTY-ONE**

**Case No. 07-O-10916**

Respondent denies culpability under Count Fifty-One.

**COUNT FIFTY-TWO**

**Case Nos. 06-O-12915; 06-O-13833; 07-O-10916**

Respondent denies culpability under Count Fifty-Two.

**COUNT FIFTY-THREE**

**Case No. 06-O-13753**

Respondent denies culpability under Count Fifty-Three.

**COUNT FIFTY-FOUR**

**Case No. 05-O-02165**

Respondent denies culpability under Count Fifty-Four.

**COUNT FIFTY-FIVE**

**Case No. 06-O-13753**

Respondent denies culpability under Count Fifty-Five.

**COUNT FIFTY-SIX**

**Case No. 05-O-02165**

Respondent denies culpability under Count Fifty-Six.

**COUNT FIFTY-SEVEN**

**Case No. 05-O-02165**

Respondent denies culpability under Count Fifty-Seven.

**COUNT FIFTY-EIGHT**

**Case No. 05-O-02165**

Respondent denies culpability under Count Fifty-Eight.

**COUNT FIFTY-NINE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Fifty-Nine.

**COUNT SIXTY**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty.

**COUNT SIXTY-ONE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-One.

**COUNT SIXTY-TWO**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Two.

**COUNT SIXTY-THREE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Three.

**COUNT SIXTY-FOUR**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Four.

**COUNT SIXTY-FIVE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Five.

**COUNT SIXTY-SIX**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Six.



**COUNT SIXTY-SEVEN**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Seven.

**COUNT SIXTY-EIGHT**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Eight.

**COUNT SIXTY-NINE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Sixty-Nine.

**COUNT SEVENTY**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy.

**COUNT SEVENTY-ONE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-One.

**COUNT SEVENTY-TWO**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Two.

**COUNT SEVENTY-THREE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Three.

**COUNT SEVENTY-FOUR**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Four.

**COUNT SEVENTY-FIVE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Five.

**COUNT SEVENTY-SIX**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Six.

**COUNT SEVENTY-SEVEN**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Seven.

**COUNT SEVENTY-EIGHT**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Eight.

**COUNT SEVENTY-NINE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Seventy-Nine.

**COUNT EIGHTY**

**Case No. 05-O-02165**

Respondent denies culpability under Count Eighty.

**COUNT EIGHTY-ONE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Eighty-One.

**COUNT EIGHTY-TWO**

**Case No. 05-O-02165**

Respondent denies culpability under Count Eighty-Two.

**COUNT EIGHTY-THREE**

**Case No. 05-O-02165**

Respondent denies culpability under Count Eighty-Three.

**COUNT EIGHTY-FOUR**

**Case No. 05-O-02165**

Respondent denies culpability under Count Eighty-Four.

1 **COUNT EIGHTY-FIVE**

2 **Case No. 05-O-02165**

3 Respondent denies culpability under Count Eighty-Five.

4 **COUNT EIGHTY-SIX**

5 **Case No. 06-O-15158**

6 Respondent denies culpability under Count Eighty-Six.

7 **COUNT EIGHTY-SEVEN**

8 **Case No. 05-O-15159**

9 Respondent denies culpability under Count Eighty-Seven.

10 **COUNT EIGHTY-EIGHT**

11 **Case No. 05-O-15158**

12 Respondent denies culpability under Count Eighty-Eight.

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14 **NOTICE OF RESPONDENT'S AFFIRMATIVE DEFENSES**

15 **FIRST AFFIRMATIVE DEFENSE**

16 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
17 fails to state facts sufficient to constitute a claim sufficient to impose discipline against Respondent.

18 **SECOND AFFIRMATIVE DEFENSE**

19 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged  
20 therein, is barred because it is preempted by federal law, namely 15 U.S.C. § 1692, et seq.

21 **THIRD AFFIRMATIVE DEFENSE**

22 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
23 is barred because it is barred by the doctrine of laches.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
26 is barred because it is barred by the applicable statute of limitations.

1 **FIFTH AFFIRMATIVE DEFENSE**

2 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
3 is barred because it is barred by the doctrines of waiver.

4 **SIXTH AFFIRMATIVE DEFENSE**

5 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
6 is barred because it is barred by the doctrines of estoppel.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
9 is barred because Respondent's conduct did not result in a violation of the profession in any relevant  
10 jurisdiction.

11 **EIGHTH AFFIRMATIVE DEFENSE**

12 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
13 is barred because Respondent has not caused and is not causing substantial harm to his clients or the  
14 public.

15 **NINTH AFFIRMATIVE DEFENSE**

16 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
17 is barred because the collection of time-barred debts is not precluded by California law or the Fair  
18 Debt Collection Practices Act, located at 15 U.S.C. § 1692, et seq.

19 **TENTH AFFIRMATIVE DEFENSE**

20 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
21 is barred because the burden of proof required to establish culpability of the alleged wrongdoing does  
22 not equate to the standard of proof necessary for a finding by this Court.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
25 is barred because Respondent's communications with debtors did not constitute the unauthorized  
26 practice of law.

1 **TWELFTH AFFIRMATIVE DEFENSE**

2 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
3 is barred because no exigency has been established, and thus the stale conduct alleged against  
4 Respondent cannot be used to justify the extraordinary relief requested.

5 **THIRTEENTH AFFIRMATIVE DEFENSE**

6 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
7 is barred because the State Bar is not entitled to injunctive relief because any alleged misconduct has  
8 not and will not cause and/or pose a substantial, immediate or irreparable harm.

9 **FOURTEENTH AFFIRMATIVE DEFENSE**

10 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
11 is barred because Respondent is not culpable for violations of the California Rules of Professional  
12 Responsibility or Business and Professions Code, as any violation was unintentional and resulted from  
13 the maintenance of procedures reasonably adopted to avoid any such violation.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
16 is barred because any acts of this Respondent were performed in good faith in conformity with  
17 advisory opinions of the Federal Trade Commission pursuant to 15 U.S.C. § 1692, et seq. Respondent  
18 is relieved of any culpability whatsoever as to the State Bar's allegations because any unlawful  
19 conduct alleged against occurred outside the course and scope of the practice of law.

20 **SIXTEENTH AFFIRMATIVE DEFENSE**

21 The Notice of Disciplinary Charges as a whole, and each purported allegation alleged therein,  
22 is barred because all, some, or part of the disciplinary charges are unconstitutional in that the  
23 regulation of Respondent in his status as a debt collector, such that said regulation prevents  
24 Respondent from using his own name to collect debt across state lines, violates the Equal Protection  
25 Clause of the United States Constitution, the Fair Debt Collection Practices Act located at 15 U.S.C.  
26 1692, et seq., as well as the Commerce Clause of the United States Constitution.

1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 Respondent presently has insufficient knowledge or information on which to form a  
3 belief as to whether Respondent may have additional, as yet unstated, defenses available. Respondent  
4 reserves herein the right to assert additional defenses in the event discovery indicates that they would  
5 be appropriate.

6 Dated: June 5, 2008

7 ELLIS, COLEMAN, POIRIER, LAVOIE, & STEINHEIMER LLP

8  
9 By

10 Mark E. Ellis

11 Attorney for Respondent JACK H. BOYAJIAN  
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CERTIFICATE OF SERVICE

I, Rosanne Estrella, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 555 University Avenue, Suite 200 East, Sacramento, CA 95825.

On June 5, 2008, I served the following document(s) on the parties in the within action:

**RESPONDENT JACK H. BOYAJIAN'S RESPONSE TO DISCIPLINARY CHARGES  
FILED BY THE CALIFORNIA STATE BAR**

<b>X</b>	<b>VIA OVERNIGHT SERVICE:</b> The above-described document(s) will be delivered by overnight service, to the following:
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Kimberly G. Anderson,  
Acting Supervising Trial Counsel  
Ashod Moorodian,  
Deputy Trial Counsel  
CALIFORNIA STATE BAR  
OFFICE OF TRIAL COUNSEL  
1149 South Hill Street  
Los Angeles, CA 900015

Office of the Chief Trial Counsel  
for California State Bar

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on June 5, 2008.

By.   
Rosanne Estrella